

BEFORE THE  
CALIFORNIA HORSE RACING BOARD  
STATE OF CALIFORNIA

In the Matter of the:	)	
	)	
Appeal from Board of Stewards Ruling	)	Case No. SAC 98-033
#26, Pacific Racing Association,	)	
dated April 26, 1998	)	OAH No. N 1998070296
	)	
BRIAN KORINER,	)	
	)	
Respondent.	)	
_____	)	

**PROPOSED DECISION**

Ruth S. Astle, Administrative Law Judge of the Office of Administrative Hearings, State of California, heard this matter on August 27, 1998, in Oakland, California.

Mary S. Cain, Deputy Attorney General, represented the complainant.

David M. Shell, Attorney at Law, 8788 Elk Grove Boulevard, Building 2, Suite F, Elk Grove, California 95624, represented Brian Koriner who was not present at the hearing. Mr. Koriner's presence was waived.

Submission of the matter was deferred to October 2, 1998 for receipt of written argument which was received and considered.

**BACKGROUND**

On April 26, 1998 the Board of Stewards, Pacific Racing Association issued their ruling #26 that: "Trainer Brian Koriner, who started the horse CASTAN, sixth place finisher in the sixth race at Bay Meadows Race Course on November 8, 1997, is fined the sum of one thousand dollars (\$1,000.00)\* (fn. omitted) pursuant to California Horse Racing Board rule #1887(a) (Trainer to Insure Condition of Horse) for violation of California Horse Racing Board rule #1843(d) (Medication, Drugs and Other Substances: Procaine – In excess of specified level)."

On April 27, 1998 Brian Koriner (respondent) filed an appeal and requested a stay. On April 28, 1998 the stay was denied. It is not possible to tell with certainty from the record the exact day the hearing on this matter was held by the Board of Stewards.

### **FINDINGS OF FACT**

The Board of Stewards, in taking action against the license held by respondent, did not issue a written decision that included a statement of the factual and legal basis for the decision as required by the Administrative Procedure Act. The Administrative Procedure Act that went into effect July 1, 1997 applies to proceedings before the Board of Stewards.<sup>1</sup> It is impossible to tell from the record on what evidence and testimony the Board of Stewards relied in coming to their conclusions.

### **LEGAL CONCLUSIONS**

Whether or not there is evidence to support the Board of Stewards' disciplinary action is not addressed in this decision. The lack of a written decision with the factual and legal basis requires that the matter be remanded to the Board of Stewards in order to meet the requirements of Government Code sections 11425.50 and 11425.10.

### **ORDER**

The Appeal of Brian Koriner is granted. Board of Stewards' Ruling Number 26, dated April 26, 1998 is vacated; and the matter is remanded for further proceedings consistent with Government Code section 11425.10.

DATED: \_\_\_\_\_

\_\_\_\_\_  
RUTH S. ASTLE  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> A decision by the Horse Racing Board, effective July 23, 1998 in the case of Bobby Jennings, Sr., Ruling #3, Pacific Racing Association dated November 26, 1997 adopted the Findings that the Stewards' decision must be based on the record, must be in writing and must include a statement of factual and legal basis of the decision as provided in Government Code section 11425.50.